

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CASE NO.: 18-50274-LRC
)	
ANDREA LYNETTE WASHINGTON,)	CHAPTER 13
)	
DEBTOR.)	JUDGE LISA RITCHEY CRAIG
)	
-----)	
)	
MELISSA J. DAVEY,)	
STANDING CHAPTER 13 TRUSTEE,)	
Movant,)	
)	
v.)	CONTESTED MATTER
)	
ANDREA LYNETTE WASHINGTON,)	
Respondent.)	
)	
-----)	

**CHAPTER 13 TRUSTEE'S MOTION TO MODIFY PLAN,
OR IN THE ALTERNATIVE, MOTION TO DISMISS CASE**

Comes now Melissa J. Davey, Standing Chapter 13 Trustee, and files this *Chapter 13 Trustee's Motion to Modify Plan, or in the Alternative, Motion to Dismiss Case*, and respectfully shows the Court the following:

1.

Debtor filed this case under Chapter 13 on January 06, 2018, and the Plan was confirmed on August 01, 2018. This Plan currently provides for payments in the amount of \$568.00 per month, an applicable commitment period of sixty (60) months and a zero percent (0%) dividend to be paid to unsecured creditors.

2.

The confirmed Plan also provides that tax refunds which Debtor is entitled to receive during the applicable commitment period shall be remitted to Trustee for disbursement to creditors under this Plan.

3.

During this case, Trustee did not receive any federal income tax refunds for the years 2018 and 2019.

4.

If Debtor received federal tax refunds and did not remit them to the Trustee, then Debtor may be in material default of the terms of the confirmed Plan, and may have caused unreasonable delay that is prejudicial to creditors.

5.

Under 11 U.S.C. Sections 1329(a)(1), 1329(a)(2), 1329(b)(1) and 1325(a)(3), the Plan should be modified and the base of the Plan should be increased in the amount of all refunds Debtor *should* have contributed to this case. Debtor must provide tax returns for all years referenced above to determine the proper amount of this adjustment.

6.

In the alternative, if Debtor fails to provide the tax returns and/or to remit the required tax refunds to the Trustee, then this case should be dismissed. 11 U.S.C. Section 1307(c).

Wherefore, based on the foregoing, Trustee respectfully requests that the Court grant this Motion and modify the Plan to increase the Plan base, or that the Court dismiss the case, and for such other relief as the Court deems just and proper.

Dated: August 31, 2022.

/s/

Mandy K. Campbell
GA Bar No. 142676
Attorney for Chapter 13 Trustee
233 Peachtree Street, NE, Suite 2250
Atlanta, GA 30303
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**NOTICE OF HEARING ON CHAPTER 13 TRUSTEE'S
MOTION TO MODIFY PLAN, OR IN THE ALTERNATIVE,
MOTION TO DISMISS CASE**

PLEASE TAKE NOTICE that Melissa J. Davey, Standing Chapter 13 Trustee, has filed this *Motion to Modify Plan, or in the Alternative, Motion to Dismiss Case* and related papers with the Court seeking an order modifying the plan or dismissing the case.

PLEASE TAKE FURTHER NOTICE that the Court will hold an initial telephonic hearing for announcements on the Motion to Dismiss at the following number: **833-568-8864**; access code: **161 346 1602** at **9:15 am on October 04, 2022**, in the U.S Courthouse, **Richard B. Russell Building, 75 Ted Turner Drive S.W., Courtroom 1204, Atlanta, Georgia 30303-3367**.

Matters that need to be heard further by the Court may be heard by telephone, by video conference, or in person, either on the date set forth above or on some other day, all as determined by the Court in connection with this initial telephonic hearing. Please review the "Hearing Information" tab on the judge's webpage, which can be found under the "Dial-in and Virtual Bankruptcy Hearing Information" link at the top of the webpage for this Court, www.ganb.uscourts.gov for more information.

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want to Court to grant the relief sought in these pleadings or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how, and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the **Clerk's Office is 1340 U.S. Courthouse (and Richard B. Russell Federal Building), 75 Ted Turner Drive S.W., Atlanta, GA 30303-3367**. You may also mail a copy of your response to the undersigned at the address stated below.

Dated: August 31, 2022.

/s/

Mandy K. Campbell
GA Bar No. 142676
Attorney for Chapter 13 Trustee
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CERTIFICATE OF SERVICE

This is to certify that I have on this day electronically filed the foregoing *Chapter 13 Trustee's Motion to Modify Plan, or in the Alternative, Motion to Dismiss Case and Notice of Hearing* to be served via United States First Class Mail with adequate postage prepaid on the following parties at the address shown for each:

DEBTOR(S):

Andrea Lynette Washington
8928 Yarmouth Dr.
Jonesboro, GA 30238

I further certify that I have on this day electronically filed the foregoing Chapter 13 Trustee's *Motion to Modify Plan, or in the Alternative, Motion to Dismiss Case and Notice of Hearing* using the Bankruptcy Court's Electronic Case Filing program, which sends a notice of this document and an accompanying link to this document to the following parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing program:

Attorney for the Debtor(s):
SLIPAKOFF & SLOMKA, PC

Dated: August 31, 2022.

/s/

Mandy K. Campbell
GA Bar No. 142676
Attorney for Chapter 13 Trustee
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